

Appendix B
INSTITUTIONAL CONTROLS

1.0 OFFPOST INSTITUTIONAL CONTROLS

This Appendix to the Rocky Mountain Arsenal (RMA) Final Offpost Operable Unit (OU) Record of Decision (ROD) presents the institutional controls for the Offpost OU selected remedy. The combination of Alternative N-4 and NW-2 is identified as the selected remedy in the ROD and the Final Offpost Endangerment Assessment/Feasibility Study (EA/FS) for the RMA Offpost OU and is described fully in the Section 9.0 of the ROD and in the EA/FS. The ROD identifies the following objective for institutional controls as a component of remedial action in the Offpost OU: prevention of the use of the ground water underlying areas of the Offpost OU exceeding groundwater containment system remediation goals

The State of Colorado and the local governmental agencies that have regulatory authority over certain activities in the Offpost OU land area have several current regulations that significantly limit or prevent use of the groundwater from the alluvial aquifer. Attachment 1 (Controls of Alluvial [Unconfined] Aquifer Use, RMA Offpost Operable Unit) and Attachment 2 (Land and Water Use, Management, and Approval Processes - Adams County, City of Brighton, Commerce City) provide the current regulations applicable to groundwater use, well construction, building permits, and zoning requirements. Attachment 1 particularly describes the institutional controls relied upon to meet the objectives for institutional controls established in the selected remedy.

This appendix identifies the authority for use of institutional controls under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. §9601 *et seq.* and the National Contingency Plan (NCP), 40 CFR Part 300.

2.0 THE USE OF INSTITUTIONAL CONTROLS UNDER CERCLA

Section 121 of CERCLA requires that EPA select remedial actions that assure protection of human health and the environment. 42 U.S.C. § 9621. EPA has recognized that this protection can be achieved through a variety of methods, including institutional controls (Preamble to the NCP, 55 Fed. Reg. 8666, 8703 [March 8, 1990]; 40 C.F.R. § 300.430 [a] [1] [iii] [C]). Institutional controls may be an integral component of a remedy that is necessary for such remedy to achieve CERCLA's protectiveness mandate. (See for example, Preamble to the NCP, 55 Fed. Reg. at 8703, 8706, 8711, and 8734). Additionally, institutional controls may be a component of a completed remedy to protect human health and the environment from treatment residuals and untreated wastes. (40 C.F.R. § 360.430 [a] [1] [III] [C]-[D]). Institutional controls are a necessary supplement when some waste is left in place, as it is in most response actions (Preamble to the NCP, 55 Fed. Reg. at 8706).

EPA identifies examples of institutional controls in the NCP Preamble, and expressly acknowledges that institutional controls have a valid role in CERCLA cleanups:

Examples of institutional controls, which generally limit human activities at or near facilities where hazardous substances, pollutants, or contaminants exist or will remain on-site, include land and resource (e.g. water) use and deed restrictions, well-drilling prohibitions, building permits, and well use advisories and deed notices. EPA believes, however, that institutional controls have a valid role in remediation and are allowed under CERCLA (e.g., 55 Fed. Reg. at 8706, section 121[d][2][B][kk]).

Within ninety days of the issuance of the Offpost ROD, the Army will issue an Implementation Plan which will contain a schedule for finalization of the Institutional Controls provided for in the ROD. That plan will provide that all Institutional Controls will be in place not later than September 1, 1996. All dates contained in that Plan will be enforceable as provided in CERCLA Section 310 and the FFA.

3.0 SITE DESCRIPTION

A detailed description of the Offpost Study Area is presented in Section 1.0 of the ROD and in the EA/FS. The Offpost Study Area was defined to include the area bounded by 80th Avenue, the South Platte River, Second Creek, and the north and northwest boundaries of RMA. The Offpost Study Area also includes the surface waters of Barr Lake, the O'Brian Canal, and Burlington Ditch from 80th Avenue to Barr Lake.

The Offpost OU is a portion of the Offpost Study Area north of RMA. The Offpost OU consists of the area within the Offpost Study Area that requires remediation; specifically, the groundwater containment system remediation goals exceeding cleanup standards.

Attachment 1

**CONTROLS OF ALLUVIAL (UNCONFINED) AQUIFER USE
RMA OFFPOST OPERABLE UNIT**

U.S. Department of the Army

Telephone No: (303) 289-0202

1. The Army will provide the Office of the State Engineer, State of Colorado, with a map identifying those areas in the Offpost Study Area where groundwater could potentially exceed containment system remediation goals. This map will be updated based on each sampling round.
2. The Army will establish procedures to ensure that the well notification program is operating effectively. The Army will inspect, or oversee inspection, of all well construction activity to monitor conformance with the State Board of Examiners well drilling regulations.
3. The Army will fund analytical sampling of any future domestic well constructed in the area of contamination, if requested.
4. The Army will provide Commerce City, the City of Brighton, and Adams County officials with the same map (as described in item No. 1) provided to the Office of the State Engineer. The Army will make arrangements with these governmental agencies to ensure that the map is used in the most effective manner possible to reduce exposure to potentially contaminated groundwater.
5. For new domestic wells with DIMP levels of eight ppb or greater (or other relevant CBSG at the time), the U.S. Army and Shell Oil Company will pay for hook-up to the SACWSD distribution system or provided deep well or other permanent solution.
6. Additional elements of exposure control and requirements for alternate water supply are presented in Section 7.1 of the main text.

Shell Oil Company

Telephone No.: (303) 860-8621

1. To eliminate potential exposure to contaminated groundwater under the Shell Oil Company properties, Shell Oil Company will execute and record proper documentation (e.g., covenant/negative easement) for its properties to: (i) preclude drilling of all groundwater wells into any alluvial aquifer water under Shell's property for future use until such groundwater no longer contains contamination in exceedance of groundwater containment system remediation goals established in the ROD, and (ii) preclude any use of any deeper aquifer water (e.g., Denver Basin) containing contamination in exceedance of groundwater containment system remediation goals in the ROD. The recorded documents shall be enforceable by the U.S. EPA, the U.S. Army, and the State of Colorado, and shall touch upon and run with the land.
2. Deed restrictions on the Shell property shall be in place no later than forty-five days after the issuance of the ROD.

Colorado Department of Natural Resources

Office of the State Engineer - Contact: Steve Lautenschlager

1. Alluvial groundwater in the Operable Unit is part of the South Platte River Flow System (which is over appropriated). Therefore new large appropriations (uses) will not be approved without appropriate augmentation plans (replacing the water to be used with water from another aquifer or another off site source). Augmentation plans are often quite expensive and hard to get approved due to the associated requirements.
2. On parcels less than 35 acres created prior to June, 1972 - One permit for a well is allowed under a presumption of no injury to other holders of water rights [CRS 37-92-602(3)(b)(II)(A)]. This well is allowed for use inside of one dwelling only and may be from any aquifer.
3. On parcels less than 35 acres not created prior to June, 1972 - This land would only come into existence by being subdivided and would therefore have to go through the County or City subdivision process and meet applicable regulations (CRS 30-28-101 - a.k.a. SB 35). Prior to issuance of any permit a water rights and/or an augmentation plan would have to be submitted and approved by "water court." (CRS 37-90-137(1) et seq. and/or CRS 37-92-302(2), et seq.).
4. On parcels greater than 35 acres - Permits may be issued serve up to 3 homes, irrigation of up to one acre of home garden and lawn (person use) and watering of domestic animals and/or livestock. This use is also allowed under a presumption of no injury to other holders of water rights [CRS 37-92-602(3)(b)(II)(A)].
5. Permits will be issued for replacement (into the same aquifer) of currently permitted or adjudicated wells as requested. (CRS 37-90-137(1), CRS 37-92-602(3).)
6. All wells installation must be done in compliance with State of Colorado, Office of the State Engineer, State Board of Examiners of Water Well Construction and Pump Installation Contractors, Revised and Amended Rules & Regulations of the Board or Examiners of Water Well Construction and Pump Installation Contractors (2 CCR 402-2) (most current version).
7. The Office of the State Engineer will include a distinctive notice on each well permit application correspondence, each well permit, and each drilling permit. The area included in this requirement is any part of the Offpost Study Area where groundwater could potentially exceed groundwater containment system remediation goals. This notice would require the applicant to contact the Tri-County Health Department and the EPA for information regarding groundwater quality and the options provided by the Army to avoid use of potentially contaminated groundwater.
8. The Office of the State Engineer will contact the Tri-County Health Department, EPA, and the Army regarding any application or permit issued with the notice.

South Adams County Water & Sanitation District (SACWSD)

Water & Wastewater - Contact: Larry Ford

1. Rules & Regulations - South Adams County Water & Sanitation District - *New Service Area* - February 1992. Application for Service, as well as, Petition for Inclusion within the Boundaries

of the District both require that the Property/Parcel owner convey all rights to groundwater for each Parcel or Subdivision Parcel to the District upon inclusion [4.0 (4.1.3) & 5.0 (5.1.3)]. The District may at its sole discretion abandon right conveyed to it and physically abandon the wells in accordance with the above referenced state Water Well Regulations [5.0 (5.1.4)].

2. Rules & Regulations - South Adams County Water & Sanitation District - *Existing Service Area* - January 1992 (Updated February 24, 1993). Application for Service, as well as, Petition for Inclusion within the Boundaries of the District both require that the Property/Parcel owner convey all rights to groundwater for each Parcel or Subdivision Parcel to the District upon inclusion [4.1 (4.1.3) & 5.0 (5.1.3)]. The District may at its sole discretion abandon rights conveyed to it and physically abandon the wells in accordance with the above referenced State of Colorado Water Well Regulations [5.1 (5.1.4)].
3. It is the policy of SACWSD not to serve wastewater without providing water service and vice versa.

Adams County Water Quality Association Management Agency (see attached By-Laws)

(Wastewater (DRCOG) Clean Water Plan Amendment, 1991)

Member Agencies: City of Commerce City, Adams County, City of Brighton, South Adams County Water & Sanitation District.

Contact: Board President Harry Tate (Commerce City Councilman)

This Agency reviews and may approve or reject all major additions or changes to sewer lines, lift stations and plant improvements. Essentially any new line is considered a major line. This Agency is intended to prevent line overlap and encourage intergovernmental cooperation.

Tri-County Health Department

Contact(s): Tom Butts or Warren Brown

Regulation NO. I-88, Individual Sewage Disposal Systems

Promulgated by the Board of Health of the Tri-County Health Department

Effective Date, February 1, 1988

Pursuant to Title 25, Article 10, Paragraph 104, CRS & Guidelines Adopted by the Colorado Department of Health

The Health Officer may refuse to grant a permit for the construction of an individual sewage disposal system where a sewage treatment works is available within 400 feet of the nearest property line and connection can be made thereto. Section III(3.14) CRS 30-1-1006(1)(a) (Special Districts), 31-35-601 (municipalities), 30-20-416 (counties).

City of Commerce City

Contact: Steve Hause, Community Planning Director

Lands currently within the City of Commerce City

-South of 120th Avenue while west of Highway 2 and then further north to the east.

"Commerce City Code - Article V. Subdivisions". Section 17-1 05 - Water Facilities (a) General requirements. This section essentially defers water service issues to SACWSD for either connection to the public water supply system immediately or in some cases allows use of individual wells or community water systems until lines reach the subdivision when connection is then required. (see SACWSD above)
Building Code (UBC & UPC 1991) - Requires proof of water and sewer taps (or well permit & approved septic system application) prior to issuance of building permit.

City of Brighton

Contact(s): Chief Building Official, City Planner

- Areas north of 120th Avenue including the triangular area between Peoria and State Highway 51, north of 112th/Highway 2

"Land Use and Development Regulations and Guidelines" (Zoning Regulations)

"Subdivision Regulations" Section V, (B.) The subdivider is required to provide and connect the following utilities (Water lines and fire hydrants, Sanitary sewer lines, ...) to existing public systems.
Building Code (UBC & UPC 1991) - Requires proof of water and sewer taps (or well permit and approved septic system application) prior to issuance of building permit.

Water & Sewer service are provided by Brighton Utilities Department within the City. Connection to the municipal water system may be recommended for developments within two miles of the current City. However, staff recommendations may not be included as part of the final approval by the City Council.

Adams County

Contact(s): Planning Dept., Director of Planning and Development, Building Dept.

Remainder of Lands in the Offpost OU not in Brighton or Commerce City

See attached "Development Review Overview"

Adams County Zoning Regulations

Adams County Subdivision Regulations

Building Code (UBC & UPC 1991) - Requires proof of water and sewer taps (or well permit and approved septic system application) prior to issuance of building permit.

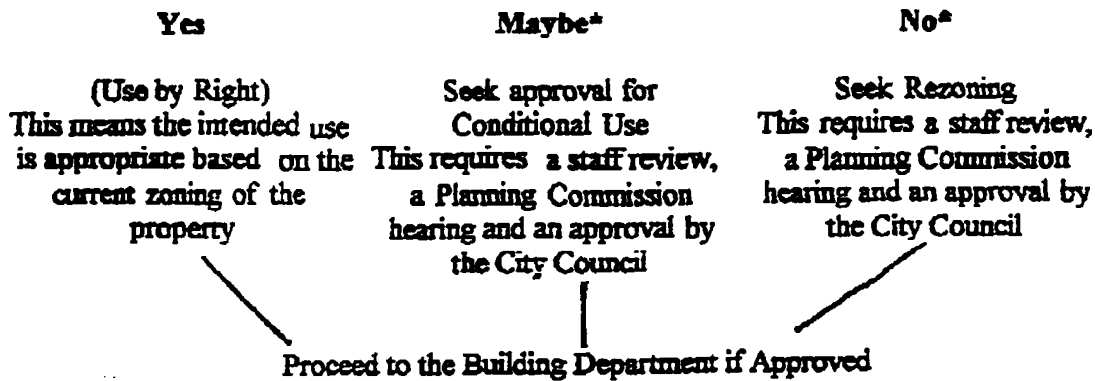
Staff recommends connection to public water and sewer if with a reasonable distance, however, these recommendations may not be retained by either the Planning Commission or Board of County Commissioners.

Attachment 2

**LAND AND WATER USE, MANAGEMENT, AND APPROVAL PROCESSES
ADAMS COUNTY, CITY OF BRIGHTON, COMMERCE CITY**

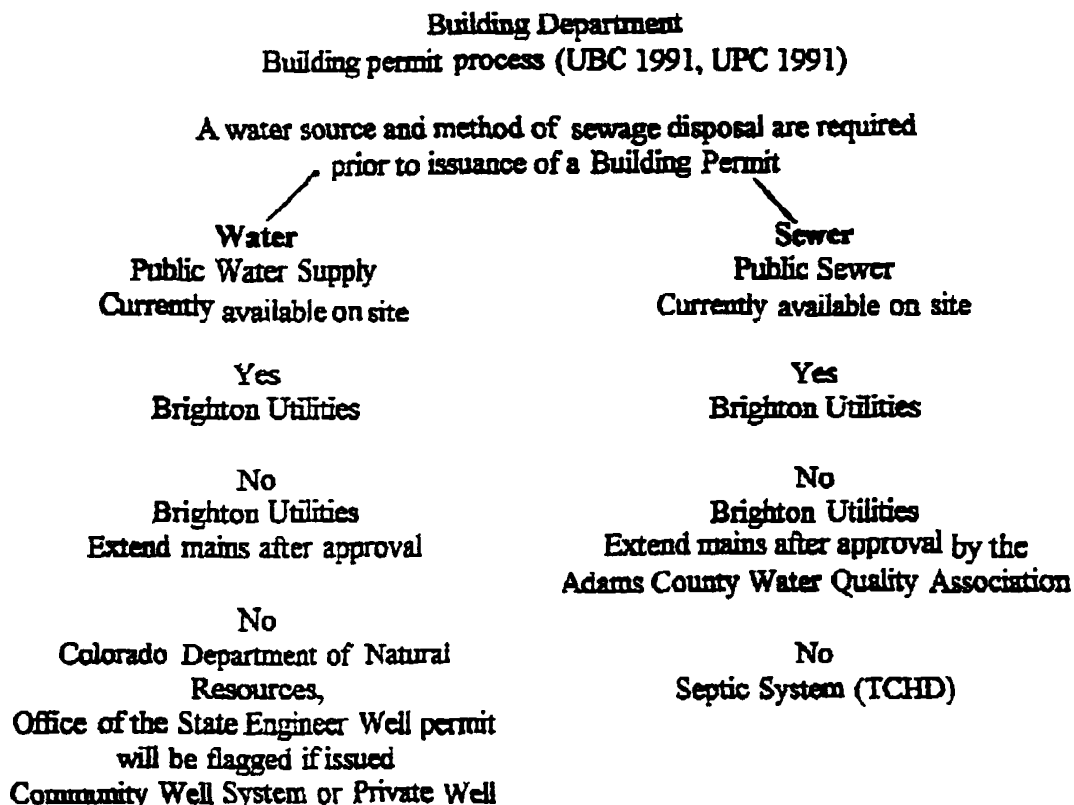
City of Brighton
Land and Water Use, Management and Approval Processes

Is the property properly zoned for the intended use?



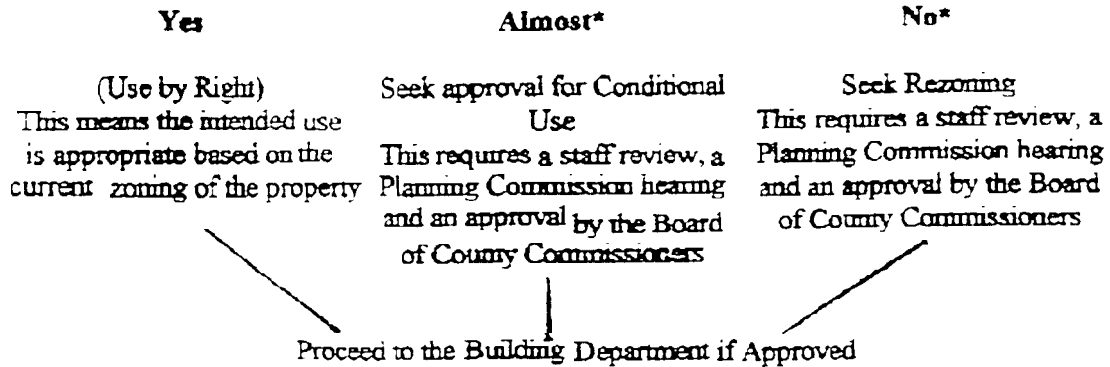
* Conditions may be placed or removed on the property use at the Planning Commission or City Council levels.

Comments are solicited from other Agencies (local and state)

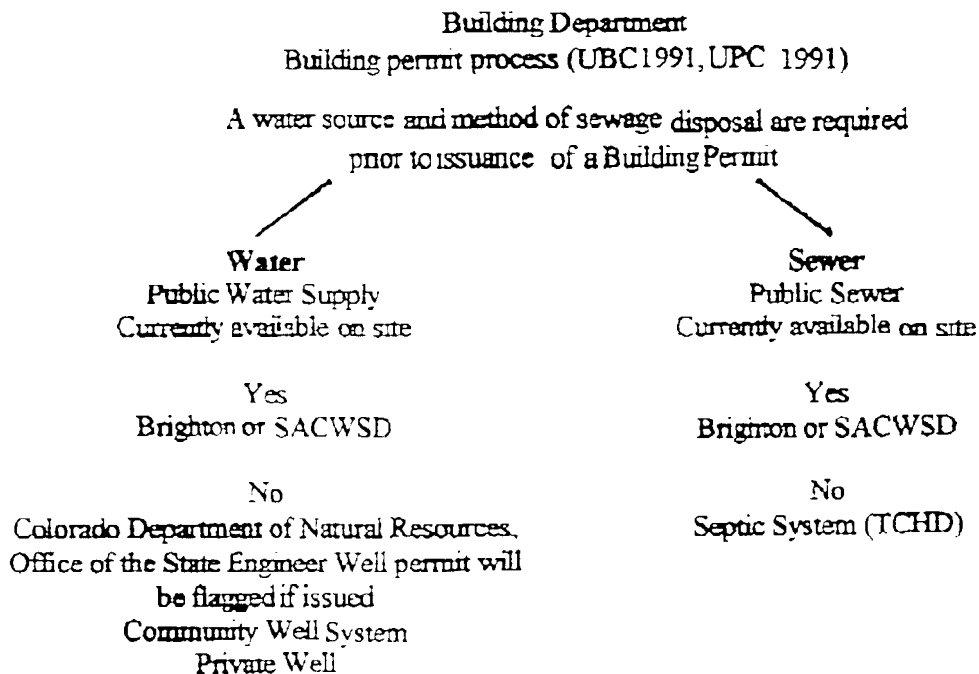


Adams County Land and Water Use, Management and Approval Processes

Is the property properly zoned for the intended use?

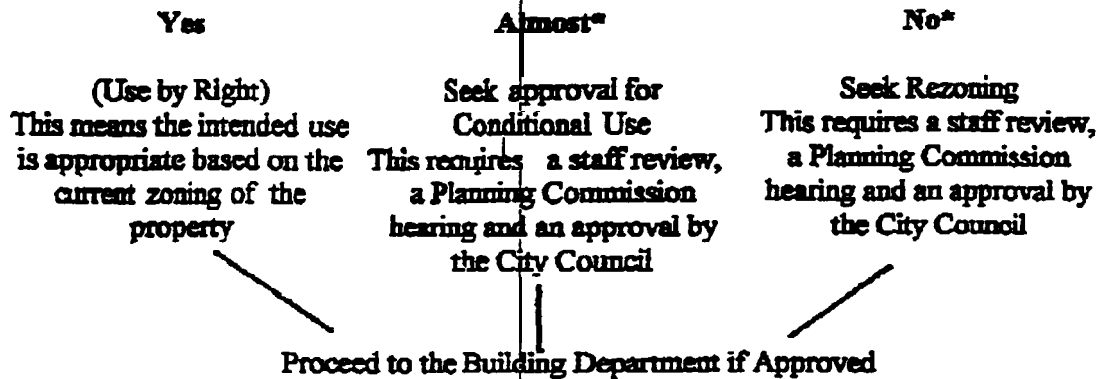


* Conditions may be placed or removed as part of the approval of the use at the Planning Commission or Board of County Commissioners levels.
Comments are solicited from other Agencies (local and state)

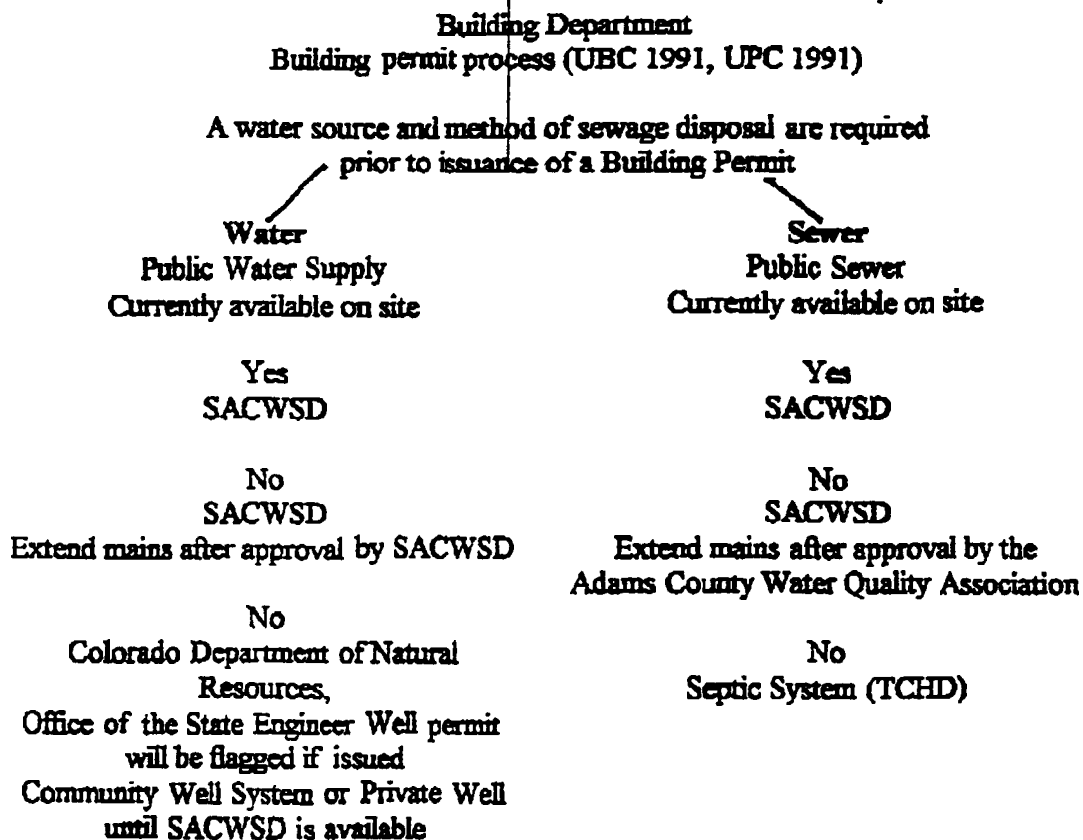


Commerce City
Land and Water Use, Management and Approval Processes

Is the property properly zoned for the intended use?



* Conditions may be placed or removed on the property use at the Planning Commission or City Council levels.
Comments are solicited from other Agencies (local and state)





REGULATION NO. I-88

INDIVIDUAL SEWAGE DISPOSAL SYSTEMS

**Promulgated by the
Board of Health of the
Tri-County Health Department**

**Effective Date
February 1, 1988**

**Pursuant to Title 25, Article 10,
Paragraph 104, Colorado Revised Statutes
and Guidelines Adopted by the
Colorado Department of Health**

demonstrate that no hazard or nuisance exists on the property.

3.13 Denials of permits shall be made in writing by the Health Officer stating reasons for the denial and requirements for reconsideration of the application.

3.14 The Health Officer may refuse to grant a permit for the construction of an individual sewage disposal system where a sewage treatment works is available within 400 feet of the nearest property line and connection can be made thereto.

3.15 Any applicant who is denied a construction permit, or any person who is adversely affected by the denial or issuance of a permit, within thirty (30) days following such denial, may request and receive a hearing before the Board of Health.

3.16 The State Administrative Procedure Act (Article 4 of Title 24, C.R.S.) shall govern any hearings held by the Department under the "Individual Sewage Disposal Systems Act."

3.17 The issuance of a permit and specifications of terms and conditions therein shall not constitute assumption or create a presumption that the Department or its employees may be liable for the failure of any system nor act as a certification that the equipment used in the system or any component thereof used in its operation or that the system for which the permit was issued insures continuous compliance with the provision of Title 25, Article 10, C.R.S. 1973, the rules and regulations adopted thereunder or any terms and conditions of a permit.

SECTION IV. APPLICATION REQUIREMENTS:

The application shall include such information, data, plans,

shall determine. No subdivision shall be approved unless adequate drainage will be provided, continuously, to an adequate drainage watercourse or regional facility.

- (7) The city council may, when it considers it necessary for the health, safety, or welfare of the public, including conservation of water and the effect on drainage and sanitary facilities, prohibit the subdivision of any portion of the property which lies within the floodplain of any stream or drainage course. Floodplain areas shall be preserved from any and all destruction or damage resulting from clearing, grading, or dumping of earth or other materials.

(Ord. No. 1026, § 1, 6-21-93)

Sec. 17-105. Water facilities.

(a) *General requirements.*

- (1) The applicant shall extend or create a potable water supply system capable of providing domestic water use and fire protection, according to approval by the appropriate fire district and the South Adams County Water and Sanitation District.
- (2) Where a public water main is accessible, the subdivider shall install adequate water facilities (including fire hydrants) subject to the specifications of the South Adams County Water and Sanitation District and the appropriate fire district.
- (3) All water mains shall be a minimum of eight (8) inches in diameter, and shall be subject to approval of the South Adams County Water and Sanitation District and the appropriate fire district.

(b) *Individual wells, central water systems.*

- (1) At the discretion of South Adams County Water and Sanitation District, individual wells may be used or a central water system provided in such a manner that an adequate supply of potable water will be available to every lot in the subdivision. Water samples shall be submitted to the Tri-county Health Department and the state water con-

servation board as deemed necessary by such entities to ensure a potable water supply.

- (2) The applicant shall agree, as a condition of approval for an individual well or central water system, that a connection to a public water main eventually shall be provided. The applicant shall make arrangements for future water service at the time the plat receives final approval. Collateral may be required to ensure compliance.
- (Ord. No. 1026, § 1, 6-21-93)

Sec. 17-106. Sewerage facilities.

(a) *General requirements.*

- (1) The applicant shall install sanitary sewer facilities in a manner prescribed by the South Adams County Water and Sanitation District construction standards and specifications. All plans shall be designed in accordance with the rules and regulations and standards of the South Adams County Water and Sanitation District and the Tri-county Health Department. Plans shall be approved by these agencies prior to approval of the final plat by the city council.
- (2) The applicant shall extend the sanitary sewer district systems for the purpose of providing sewerage facilities to the subdivision, subject to the provisions of paragraph (b) below.

(b) *Connection to South Adams County Water and Sanitation District.*

- (1) If South Adams County Water and Sanitation District facilities are accessible and a sanitary sewer is placed in a street or easement abutting upon the property, the owner thereof shall be required to connect to the sewer for the purpose of disposing of waste, and it shall be unlawful for any such owner or occupant to maintain an individual sewage disposal system.
- (2) Where South Adams County Water and Sanitation District systems are not reasonably accessible, but will become available

within a reasonable time, the applicant may choose one (1) of the following alternatives:

- a. Central sewerage system, the maintenance cost to be assessed against each property benefitted. Where plans for the future provide for the South Adams County Water and Sanitation District to install the sewer lines, the laterals and mains of the development shall be in conformance with the plans of the district and shall be ready for connection to the proposed sewer mains of the district.
 - b. Individual disposal systems, provided the applicant shall install sanitary sewer lines, laterals and mains from the street curb to a point in the subdivision boundary where a future connection with the South Adams District shall be made. Sewer lines shall be laid from the building to the street line and a connection shall be available in the structure to connect from the individual disposal system to the South Adams County Water and Sanitation District system when it becomes available. The sewer systems shall be capped until ready for use and shall conform to all plans for installations of South Adams County Water and Sanitation District, where they exist, and shall be ready for connection to the sewer main.
- (3) Where South Adams County Water and Sanitation District facilities are not reasonably accessible, and will not become available within a reasonable period of time the applicant may, at the discretion of South Adams County Water and Sanitation District and with the approval of Tri-County Health Department, install sewerage systems as follows:
- a. For medium- and high-density residential (R-2, R-3) and nonresidential areas, a central sewerage system shall be installed. The applicant shall install all sewer lines, laterals, and mains to be in conformance with plans of the South Adams County Water and Sanitation

District and shall be ready for connection to the public sewer main when the main becomes available.

- b. For low-density residential (R-1) areas individual disposal systems or central sewerage systems may be used, subject to approval of the South Adams County Water and Sanitation District.
- (4) Where individual disposal systems are proposed, minimum lot areas shall conform to the requirements of the zoning ordinance and percolation tests and test holes shall be made as directed by the Tri-County Health Department and the results submitted to the department of community development. The individual disposal system, including the size of the septic tanks and size of the tile fields or other secondary treatment device, shall be approved by Tri-County Health Department prior to final approval of the plat by the city council.
- (Ord. No. 1026, § 1, 6-21-93)

Sec. 17-107. Sidewalks and trails.

(a) *Required improvements.*

- (1) Sidewalks and disabled ramp access shall be included within the dedicated nonpaved right-of-way of all roads as described in design standards of the city, unless waived by the city council as not being required for the public health, safety, and welfare of the inhabitants of the city.
- (2) Concrete curbs and gutters are required for all streets where sidewalks are required by this article or where required at the discretion of the city council for the public health, safety, and welfare of the inhabitants of the city.
- (3) In residential subdivisions, a median strip of grassed or landscaped areas at least five (5) feet wide shall separate all sidewalks from adjacent curbs, unless waived by the city council as not being required for the public health, safety, and welfare of the inhabitants of the city.

(b) *Pedestrian access.*

- (1) In order to facilitate pedestrian access from the streets to schools, parks, playgrounds



Adams County, Colorado

Development Review Overview

A Citizen's Guide to the Process of Reviewing
Applications for Land Development and Land Use
Permitting for Adams County

Summary

This document is designed to provide a brief overview of the process for making land use decisions in Adams County and who participates in the process. Its purpose is to give citizens the background they need to effectively participate in that decision-making process and influence decisions that affect them. The term "land development" is intended to be general and includes rezonings, conditional uses, subdivisions and exemptions from subdividing, variances, special uses and certificates of designation. Except for differences between which board or commission makes the ultimate decision, the steps that are taken to make the particular decision are very similar. Adams County has land use jurisdiction over all public and private property located in the unincorporated portions of the County. The County does not have land use jurisdiction over any property located in a City.

The Process

The steps that are taken when an application for land development is made are the following:

1. A potential applicant calls or visits the Planning and Development Department and discusses their land development idea. The staff advises what action would need to be taken to achieve the end result that is desired.
2. A "pre-application meeting" is scheduled. For simple and straightforward applications, the pre-application meeting may take place during the initial contact by a potential applicant. An example of such an application could be a variance from the side yard setback to construct a garage. More complicated applications, such as the platting of land for a new two-hundred acre subdivision, would require research by the staff to be knowledgeable about a given area or property so that a meaningful pre-application meeting could be conducted.

Pre-application meetings have two purposes: a) to advise potential applicants what they need to submit in order for their application to be placed on the appropriate agenda, and b) to advise applicants what the staff reaction to an application is likely to be, given what we know about the issues that are likely to affect that application.

3. An application is submitted. The staff reviews it for completeness and if it is complete, it is placed on the next available agenda for the appropriate board or commission which meets the notice and referral time requirements.
4. Copies of the application materials are mailed out to a number of governmental agencies and any citizen's groups that have expressed a desire for notice within a given area. The referral notice specifies what is

being applied for, asks for comments within a deadline, and provides the name of the staff person who can answer questions about the application.

5. Letters are mailed out to property owners near the site of the application. In the case of Board of Adjustment hearings, abutting property owners are mailed letters. In the case of Planning Commission and Board of County Commissioner hearings, property owners within at least 500 feet are mailed letters. These distances may be expanded at the discretion of the County staff.

6. The staff reviews the application and writes a written report with consideration being given to the criteria for review of the particular application and the comments received from citizens and agencies. The report is sent to the appropriate Board or Commission for their review prior to their hearing.

7. The public hearing is held and a decision is made on the application. The Board of Adjustment makes a final decision on variances and special uses. The Planning Commission makes a recommendation to the Board of Commissioners who, in turn, make a final decision on rezonings, conditional uses, subdivisions and certificates of designation. Except for minor differences, the Board of Commissioners, the Planning Commission and the Board of Adjustment conduct their hearings in a very similar manner. First, the staff introduces the case with a brief summary of what is being applied for and provides the staff recommendation. Next, the applicant makes a presentation of the application and responds to the staff's recommendation and any conditions being recommended. After the applicant has made the presentation, the public is invited to be heard. The Chairman will ask for public comment in favor of the application, in opposition to it, and any questions that the public has for information only. Often, questions are asked by those who are speaking in favor or in opposition or just for information. At the conclusion of the public input portion of the hearing, the appropriate persons (usually the applicant but also staff or a board or commission member) will answer the questions which have been asked. At any time during the hearing, a board or commission member may be recognized by the chairman in order to ask questions or get clarification of the information being given. The application is then discussed by the board or commission members and a motion for action on the application is made by one of the members. A majority vote of the board or commission is required for the motion to pass, with one exception (see Glossary of Terms, Appeals of Administrative Decisions).

The Planning Commission

Planning Commissioners are citizens appointed by the Board of County Commissioners. They have three basic duties:

1. To adopt and amend, as appropriate, the County Comprehensive Plan. This Plan is the official policy of the County for how the County should grow and develop (or redevelop) in the future. The Plan provides guidance for decisions to be made on development applications and public capital improvement projects. The Plan is not regulatory; it is a statement of policy. The Planning Commission functions as a legislative body when they perform this duty.
2. To review applications for land use changes and land subdivision and recommend action on those applications to the Board of Commissioners. In making their decision, the Planning Commission considers the consistency between the application and the Comprehensive Plan, the compatibility between the requested development and existing development in the area, and the ability of the proposed development to meet the requirements of the Zoning Regulations or Subdivision Regulations, as appropriate. The Planning Commission functions as a quasi-judicial body when they perform this duty.
3. To recommend adoption of the County Zoning Regulations and Subdivision Regulations. The Planning Commission may recommend amendments to the Zoning Regulations and Subdivision Regulations but the Board of Commissioners has the final decision-making authority on regulatory amendments. The Planning Commission functions - as a legislative body when they perform this duty.

The Board of County Commissioners

The County Commissioners are the elected representatives of the citizens. They perform many duties other than those relating to land development applications and only their duties concerning land development applications are discussed here. The County Commissioners make the final decision on all change of use applications, subdivisions and regulatory amendments. They hold public hearings in a similar manner to those of the Planning Commission. The County Commissioners consider all the input that the Planning Commission does plus the Planning Commission recommendation in making their decision on an application. The Board of County Commissioners functions as a quasi-judicial body when they hear change in use or subdivision applications and as a legislative body when they hear proposed regulatory amendments.

The Board of Adjustment

Board of Adjustment members, like the Planning Commissioners, are citizens appointed by the Board of County Commissioners. The Board of Adjustment hears applications for variances, special uses and appeals of administrative decisions. Unlike the Planning Commission, however, the decisions of the Board of Adjustment are final and not appealable to the Board of County Commissioners. The Board of Adjustment functions as a quasi-judicial body.

Planning and Development Department Staff

The staff members of the Planning and Development Department (staff) are employees of the County. The Director of the Department reports to the County Administrator who, in turn, reports to the Board of County Commissioners. Staff administers the processes for land development applications, provides public information, and makes recommendations to the appropriate board or commission on the particular applications.

Glossary of Terms

Appeal of an Administrative Decision—The Zoning Regulations delegate authority to County staff to make administrative decisions. These staff members may be the Director of Planning and Development, the Chief Building Official, or other County staff. An appeal may be made to the Board of Adjustment by an applicant concerning an interpretation of the Zoning Regulations, denial of a building permit due to a zoning standard, or some other decision which is not agreed with by the applicant. The Board of Adjustment reviews the decision made and may uphold it or reverse it in whole or in part. For a decision to be reversed, four of the five Board of Adjustment members must vote for the reversal of the decision.

Certificate of Designation—A type of use approval that is limited to waste management operations such as landfills or waste incinerators. Certificate of Designation is a State of Colorado review process that requires a recommendation of approval by the Colorado Department of Health before the County may grant a certificate. The State review involves technical considerations concerning whether a proposed operation will be consistent with the State's waste management regulations. The County review involves land use considerations such as compatibility with a existing uses, effect on the Comprehensive Plan objectives for an area and traffic impacts.

Compatibility—A condition that exists, or is believed to be possible, between two or more uses whereby the conduct of one use does not injure the ability to conduct another use. It does not mean that the uses are the same or even similar. It does mean that if uses are compatible, property owners may use their properties without being unreasonably affected by the other use(s).

Conditional Use—An additional use of land within a given zone district, not otherwise allowed as a use-by-right, that may be authorized by the County and may be restricted by conditions to establish compatibility between the use and adjacent uses. Conditional uses may only be authorized by the Board of Commissioners after review by the staff and the Planning Commission in a due process review.

Due Process--A method of making decisions that is based on following previously adopted rules of procedure. In the context of land development review, it means a process for making those decisions that ensures that all parties have an opportunity to provide information on an equal basis which is intended to influence the outcome of the decision-making process.

Ex Parte Contacts--A legal principle that means contact by a decision-maker in a quasi-judicial decision-making process with a party or parties to an application outside the public hearing. A party to an application is the applicant, affected citizens, or any other person who will potentially be benefitted or injured by the action taken on the application. Ex Parte contacts should be avoided so that all parties to an application may have an equal opportunity to provide information in the public hearing and influence the ultimate decision.

Legislative Process--A decision-making process that seeks information from all citizens on a matter of community-wide interest. Citizens are encouraged to contact their elected or appointed representatives and provide their viewpoint on such matters on a formal or informal basis.

Quasi-Judicial Process--A decision-making process that bases a decision on previously-established criteria for making the decision. Citizen input is encouraged that provides information concerning how an application does, or does not, meet those criteria. The input is restricted to a public hearing where the input is made and decisions are reached.

Special Use--Any use of land, not prohibited within the zone district, authorized by the Board of Adjustment after a due process review, for a period not to exceed five years.

Subdivision Regulations--The document approved by the Board of Commissioners that provides for the standards by which land is divided into smaller parcels or combined into larger parcels and how the description of these parcels is made a matter of public record. It also provides standards for the configuration of parcels, access provisions, and roadway and drainage standards.

Subdivision--A legally recognized parcel of land, or collection of parcels of land that is defined by a narrative and graphic description. The document that depicts a subdivision is a plat.

Temporary Use--Any use of land, not prohibited within the zone district, authorized by the Director of Planning and Development but for a period not to exceed ninety days. However, grading and hauling operations may be authorized under a Temporary Use permit for a period of up to one-hundred-eighty days on properties of ten acres or less.

Variance--A variance is authorized by the Board of Adjustment. Variances relate to the physical requirements of the Zoning Regulations only, not to use of property. In theory, all property in the same zone district is the

same--in practice, lots are not alike but the standards of a given zone district apply to all lots in the zone district. The variance process allows the Board of Adjustment to "adjust" the zoning standards to accommodate for differences between the physical layout of lots so that all property owners may be able to enjoy their properties in an equitable manner.

Zoning--The practice of establishing districts within a jurisdiction that allow specific uses to be conducted, under standards, in order to establish separation between uses which otherwise would conflict.

Zoning Map--The official map of the County that shows the boundaries of all zone districts. The map is adopted by the Board of Commissioners by resolution and each change to the map is also adopted by resolution. Both the map (which is really a collection of approximately 80 sheets to cover the entire County) and the resolution are recorded in the office of the County Clerk and Recorder.

Zoning Regulations--The document approved by the Board of Commissioners that defines all zone districts and the standards expected of all uses within zone districts. These regulations also provide for the process by which zoning is changed, zoning enforcement procedures, and general standards that apply to any land use in all zone districts.

BY-LAWS
OF
ADAMS COUNTY WATER QUALITY ASSOCIATION

ARTICLE I

OFFICES

Section 1.

The office of the Adams County Water Quality Association ("Association") shall be at the office of South Adams County Water and Sanitation District, 6595 East 70th Avenue, Commerce City, Colorado 80037-0597 or such other place the board of directors may from time to time determine.

ARTICLE 2

DIRECTORS

Section 1.

The board of directors for the Association shall consist of one representative elected by each participating entity, consisting of the City of Commerce City, Colorado; City of Brighton, Colorado; County of Adams, Colorado; and South Adams County Water and Sanitation District.

Section 2.

In the absence of the appointed director, the appointed alternate director may act in place of the absent director.

ARTICLE 3

OFFICERS

Section 1.

The officers of the Association shall be a president, a vice-president and a secretary.

ARTICLE 4

ELECTION OF OFFICERS

Section 1.

Officers shall be elected by a majority vote of the directors at the organizational meeting held in 1991.

Section 2.

Beginning in 1992, and every year thereafter, election of officers shall be held at the first annual meeting of the Association.

Section 3.

There shall be no prohibition against an officer succeeding him or herself in any of the offices of the Association.

ARTICLE 5

MEETINGS

Section 1.

Unless otherwise noted, regular quarterly meetings of the Association shall be held on the second Thursday of January, April, July and October as set forth in the Memorandum of Understanding between members of the Association.

Section 2.

In the event there shall be no business to conduct at such quarterly meeting, the president may cancel such meeting in writing to all directors setting forth the reason for such cancellation.

ARTICLE 6

SPECIAL MEETINGS

Section 1.

A request for a special meeting of the board of directors may be requested by a director in writing to the president of the Association with copies to all member directors. The request shall set forth the purpose of such request for a special meeting.

Section 2.

After receipt of a request for a special meeting, the president shall set a special meeting of the board of directors within twenty days after receipt of such request and shall give the members of the board of directors notice in writing of the date and time of such special meeting and the purpose of such meeting. Such notice shall also include copies of any reports, exhibits, or other material that may have been submitted to the president by the requesting director.

ARTICLE 7

COMMITTEES

Section 1.

The president shall appoint such committees as he or she deems necessary to carry out the purposes and the activities of the Memorandum of Understanding between the member entities of the Association.

ARTICLE 8

RECOMMENDATIONS

Section 1.

All recommendations or decisions of the board of directors on all Clean Water Plan Amendments, 201 Facility Plans, proposals or other submittal shall be by majority vote, each director shall have one vote. In the absence of a director, his or her duly appointed alternate shall be entitled to vote.

Section 2.

The result of such votes shall be submitted by the president on all Clean Water Plan Amendments, 201 Facility Plans or such other plans, studies or reports submitted by the Association or one of its director entities to Denver Regional Council of Government or to the Colorado Water Quality Control Division or to any other regulating agency.

ARTICLE 9

EMPLOYEES OF ASSOCIATION

Section 1.

The Association may appoint a Recording Secretary to take all of the minutes of the board of directors and to conduct such other activities deemed necessary by the Association.

Section 2. -

The Association may employ such other employees it deems necessary to carry out the purposes and the activities of the Association.

Section 3.

Compensation for such employees shall be determined and allocated between the members of the Association in such a manner as may be determined by the Association.

ARTICLE 10

CONFLICT

Section 1.

In the event a conflict develops between the provisions of the Memorandum of Understanding entered into between the member entities and these By-laws, the provisions of the Memorandum of Understanding will control.

THESE BY-LAWS ADOPTED THIS DAY OF _____, 1991.